June 2008

Updating the Farm Bill Safety Net in an Expanding Sea of Risk

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POLICY ISSUES
Insights on food, farm, and resource issues
PI1 – June 2008
A publication of the American Agricultural Economics Association

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JEL Classification: H10

Overview of the Food, Conservation and Energy Act of 2008 (P.L. 110-246)[1]

Several months past due, the Food, Conservation and Energy Act (FCEA) of 2008 (P.L. 110-246) is now law. Reform, budget, and national and international politics were central issues fueling a debate that resulted in this new bill. Whether this new Farm Bill will ultimately succeed in providing an adequate farm and food safety net and whether it is a "good" or "bad" bill depends on one's perspective. As to cost, the Congressional Budget Office (CBO) scores the bill at $307 billion for a 5–year period (2008–2012), with 68% going to nutrition, 11% to commodity programs, 8% of estimated expenditures to conservation programs, and 13% to the rest of the bill.

Highlights of the 2008 FCEA:

1. New titles added to the bill include Horticulture and Organic Agriculture; Livestock; Commodity Futures; and, Crop Insurance and Disaster Assistance.
2. Commodity programs were reauthorized but with reductions in payment limits, some commodity program payment rate changes, inclusion of a new revenue program, crop insurance reform, and a new permanent disaster assistance program.
3. More funds will go to conservation programs with substantial growth in the renamed Conservation Security Program (CSP), Environmental Quality Incentives Program (EQIP), Farm and Ranch Protection Program (FRPP), Grasslands Reserve Program (GRP), and Wetlands Reserve Program (WRP).
4. Country of Origin Labeling (COOL) will be fully implemented September 2008 with additional commodities and revised labeling, record–keeping, and compliance rules.
5. More than two–thirds of the act's funds go to nutrition programs, with more funding for food stamps, food banks, locally–produced food, and school and seniors' food programs.
6. Energy provisions include more support for cellulosic ethanol and less for grain ethanol, with a new sugar–for–bioenergy program.
7. Funding for agricultural Research and Extension activities are made more competitive, with increased opportunities for the private sector and nonland grant colleges of Agriculture to pursue scarce Federal dollars.
8. The Cooperative State Research, Education and Extension Service (CSREES) is to be reorganized with the creation of a new National Institute of Food and Agriculture (NIFA).

Supporters say that the new bill continues to provide a safety net to producers. Benefits cited for the bill are that it allows for maintenance of a domestic safe, varied, and affordable food and fiber supply and stimulates investment in both agriculture and other U.S. economic sectors[2]. The current bill is also said to bring reform by reducing distribution of tax dollars to wealthy producers, ascribing payments to individuals, and providing additional food security to consumers who are in need.

[1] *An act HR 2419, less Title III Trade, was enacted May 22, 2008 as Public Law 110–234. See the U.S. House of Representatives Agriculture Committee Farm Bill Homepage http://agriculture.house.gov/inside/FarmBill.html for details and text of the bill (HR 2419). The Trade Title was inadvertently left out of the enacted bill, prompting Congress to subsequently pass a complete 15–title farm bill (HR 6124) and submit it to the President. The President vetoed the revised bill and Congress over–rode the veto as they did for HR 2419 on June 18, 2008, finally completing the farm bill process. It had been expected that the 2002 farm act would be replaced by the end of 2007. While the House passed a version of the Farm Bill in June 2007 and the Senate in December 2007, a delay in establishing a Conference Committee, a legislative battle over funding and committee jurisdiction, backdoor negotiations with a reluctant White House and stepped–up pressure from interest groups were variously blamed for the subsequent "late" passage of a 2007 Farm Bill.*

Detractors say that it maintains the status quo of supporting wealthy farmers while giving political legitimacy for domestic food price increases. Opponents, including the Administration, say the bill contains little in the way of real reform and provides no budgetary savings. Lack of responsiveness to WTO concerns has been characterized as thumbing the Congressional nose at trade partners. And, opponents of the existing system of commodity support that continues to reward current or historical production fear the new farm bill will further concentrate resources in the hands of fewer producers and agribusinesses, exacerbating the problems of distributional inequity in farm programs and farm resource ownership.

Commodity Programs

Provisions of the FCEA Commodity Title I are similar to those of the 2002 law with a few notable changes. The direct payment (DP) program, counter–cyclical payment (CCP) program, and an optional Average Crop Revenue Election (ACRE) program are all authorized in the new bill to provide program payments for eligible commodities including peanuts.

The ACRE Program has been authorized for 2009–2012 as an alternative to the CCP program. ACRE can be elected in any year beginning in 2009, but once ACRE is chosen, the election is irrevocable through the 2012 crops. ACRE provisions will apply to all eligible commodities that are raised on the farm.

There is a double trigger for activating ACRE payments requiring: that actual state revenue must fall below ACRE Program Guaranteed revenue and that actual farm revenue must fall below the farm revenue benchmark for the crop year for the covered commodity. Individual farm and average state farm losses must fall below 100% individual and 90% state "benchmark" revenue levels before payments are triggered. Commodity yield averages are calculated based on five–year Olympic average[3] yields per planted acre while price averages are based on most recent two–year average national prices. Farm revenue benchmark calculations include the addition of crop insurance premiums paid to avoid penalizing individual producer decisions to purchase higher levels of crop insurance coverage. Adjustments are allowed to the ACRE Program Guarantee for irrigation. The ACRE Program guaranteed payment cannot change more than plus or minus 10% from the previous year.

In each year, the actual state revenue is calculated as actual state yield per planted acre times the national average price, while the actual farm revenue is calculated as actual farm yield per planted acre times the national average price. If both farm and state revenues fall below their respective triggers, an ACRE payment is calculated as:

a. The lesser of (ACRE Program Guarantee (minus) Actual State Revenue) or (25% of the ACRE Program Guarantee)
b. Times 83.3% of planted acres in 2009–2011 for eligible commodities OR 85% of planted acres in 2012 for all eligible commodities
c. Times the ratio of the farm's 5–year Olympic average yield per planted acre divided by the state's 5–year Olympic average yield per planted acre.

As noted in the calculation, ACRE payments are calculated on planted acres, not base or harvested acres. The total number of planted acres of all crops on a farm covered by ACRE cannot exceed the farm's total base acres. ACRE Program Guarantee is defined as 90% (times) benchmark state yield per acre for the crop year (times) ACRE Program Guaranteed Price for the crop year. Actual state revenue is the actual state yield for the year times the national average market price for the crop year for a commodity. Actual farm revenue is actual farm yield (times) national average market price for a commodity.

In other commodity program changes, dry peas, lentils, and small and large chickpeas will be eligible for CCP and ACRE programs in 2009. Payment yields will be based on 1998–2001 average yields adjusted to 1981 to 1985 average yields. Yields less than 75% of county average yields are assigned 75% of the county average yield. Those areas with insufficient county yield history will be allowed to use the dry pea yield ratios.

Direct payments are based on 83.3% of base acres for 2009–2011 for all covered commodities and peanuts and 85% of base acres for all eligible commodities including peanuts in 2008 and 2012. CCP payments remain based on 85% of established eligible acres. Those electing participation in ACRE will receive a reduction of 20% in direct payments and 30% in marketing loan rates. Unreduced commodity program payment rates are shown in Table 1.

Marketing loan program provisions are authorized to generally operate the same as in the 2002 Farm Bill but with modifications to levels of payment and methods of calculating posted county prices and payment limits. The posted county price (PCP) upon which a loan deficiency payment or loan repayment is made may be a 30–day moving average of locally–adjusted terminal prices instead of simply the previous day's price. However, the exact mechanics of the change in calculating the PCP are still uncertain and subject to interpretation by USDA. The benefits from loan deficiency payments or marketing loan gains under the loan program will no longer be subject to

[2] *"Communities across the nation, from urban to rural, have waited too long for this legislation.—Letter to the House Ag. Committee from 1,000 organizations." http://agriculture.house.gov/inside/Legislation/110/FB/Conf/CoalitionLetter.pdf*

[3] *The Olympic average is found after dropping the highest and lowest observations.*

Table 1. Commodity Program Rates for Selected Commodities

Commodity	Target Price			Direct Payment Rate	Loan Rate		
	2007	2008–09	2010–12	2007 and 2008–12	2007	2008–09	2010–12
Corn (bu)	$2.63	$2.63	$2.63	$0.28	$1.95	$1.95	$1.95
Cotton (lb)	$0.724	$0.7125	$0.7125	$0.0667	$0.52	$0.52	$0.52
Peanuts (ton)	$495.00	$495.00	$495.00	$36.00	$355.00	$355.00	$355.00
Rice (cwt)	$10.50	$10.50	$10.50	$2.35	$6.50	$6.50	$6.50
Soybeans (bu)	$5.80	$5.80	$6.00	$0.44	$5.00	$5.00	$5.00
Wheat (bu)	$3.92	$3.92	$4.17	$0.52	$2.75	$2.75	$2.94

payment limits, precluding the need for commodity certificate provisions to liquidate commodity loans during low–price years.

Program Payment Limits

Limits imposed under the new law state that commodity program payments cannot be received if non-farm average adjusted gross income (AGI) exceeds $500,000, and DPs cannot be received if farm income exceeds $750,000 average AGI (based on IRS reported 3–year average AGI). Categories of eligible farming income are listed in the bill. DP and CCP limits remain as they were passed in the 2002 farm bill, with the exception that limits are now tracked to individuals, instead of entities[4]. For ACRE payments, the new limit is $65,000 plus the amount of the reduced DP due to the 20% cut in DP under ACRE. The benefits from loan deficiency payments or marketing loan gains under the loan program will not be subject to payment limits. State and local governments are not eligible for payments with exceptions of payments to entities that support a public school (limited to $500,000). To be eligible for program payments an individual must be actively engaged in the farming operation, contributing substantial capital, land or machinery or providing labor or management to the operation.

Dairy Support

Dairy is treated favorably in FCEA. Most dairy provisions of the 2002 farm bill are reauthorized and increased in the 2008 bill. Support prices are established for cheddar cheese, butter, and nonfat dry milk. The Milk Income Loss Contract (MILC) payments are adjusted to avoid the accumulation of excess Commodity Credit Corporation (CCC) stocks. Dairy Export Enhancement, Dairy Indemnity, Dairy Promotion and Research and MILC programs are reauthorized. The MILC payment percentage and the MILC payment limit are increased for most of the life of the new program. In addition, the reference price for triggering MILC payments will also be adjusted based on the amount by which the National Average Dairy Feed Ration Cost exceeds an established benchmark.

Sugar Support

Sugar support also grew in FCEA. The price support loan rate for raw sugar cane is maintained at the current 18 cents/lb for 2008 and rises to 18.75 cents/lb by 2011. Sugar beet and "in process sugar" loan rates are set in relation to sugar cane loan rates. Sugar producers are also guaranteed an 85% share of the domestic sugar market for human consumption, with any imports in excess of 15% of the market diverted to bioenergy production.

Crop Insurance and Disaster Assistance

The federal crop insurance program is modified under FCEA (Title XII) to attain cost savings, greater compliance, special treatment of organic farmers, expanded research and development, timing shifts in premium due dates and company expense reimbursement, and regular opportunities for the Risk Management Agency (RMA) to evaluate the industry. Cost savings are expected by adjusting the national loss ratio from 1.075 to 1.0, and making corresponding adjustments in premium rates to equal projected indemnities. Cost savings will also come from reducing administrative and operating expense payments by 2.3 percentage points from current rates, except for an adjustment when the loss ratio in a state exceeds 1.2. Premium due dates and company reimbursement dates are changed starting in 2012. Increases in catastrophic and noninsured crop assistance program administrative fees are included in the legislation.

Ad hoc disaster assistance has been authorized to cover agricultural losses in some part of the nation almost every year over the past several Farm Bills. Title XV of the new bill authorizes the Supplemental Agricultural Disaster Assistance Trust Fund. Producers suffering losses on eligible commodities in designated agricultural disaster counties and producers with losses that exceed 50% for farms in counties outside a disaster area will be eligible for assistance under this program.

[4] *The 2002 farm bill imposed payment limits of $40,000 of DPs, $65,000 for CCPs, and $75,000 for marketing loan gains and loan deficiency payments (LDP) per entity. Direct and Counter–Cyclical payments were made on 85% of eligible base acres. Payments received from holdings in up to one–half of two additional entities were also allowed, effectively doubling the program payment limit per entity. Current law eliminates this so called 3–entity rule and tracks and limits payments to $40,000 for DPs and $65,000 for CCPs per individual.*

The Trust Fund supports five new disaster assistance programs which are authorized under both Title XII and Title XV. These are the Supplemental Revenue Program (SURE), the Livestock Forage Disaster Program (LFP), the Livestock Indemnity Program (LIP), the Tree Assistance Program (TAP), and the Emergency Assistance Program for livestock, honey bees, and farm–raised fish.

SURE participation will require insurance (crop insurance if available or Noninsured Crop Disaster Assistance Program—NAP—if not) for all crops (with an exception for 2008 if producers pay a nominal administrative fee). A difference from past disaster assistance is that this program encompasses losses over the entire farm and all crops in determining a total farm revenue program guarantee. If total farm revenue is less than an estimated program guarantee, 60% of the difference between farm and program guaranteed revenue would be provided in payment. The SURE guarantee is based on 115% of the insurance protection purchased or 120% of the noninsured assistance program coverage signed up for on the farm, but may not exceed 90% of the expected revenue for the farm. The SURE multiplier applied to the insurance coverage level provides protection against so called "shallow losses.[5]" Total farm revenue includes the actual production value of the crop; insurance indemnities; any other disaster assistance; 15% of the DP for the farm; all loan deficiency payments and marketing loan program gains; and all CCP or average crop revenue payments.

LFP, LIP, and TAP programs are similar in application and benefit levels to previous ad hoc disaster programs. The program for livestock, honey bees, and farm raised fish is intended to augment other assistance programs that the Secretary of Agriculture determines to be inadequate. These four programs do not require prior insurability.

Past disaster assistance programs were funded by emergency appropriations or from offsets with the budget baseline. The creation of a Trust Fund is a novel approach to creating a pool of funds for agricultural programs. Trust Fund money is derived from a 3.08% assessment of duties accumulated under the Harmonized Tariff Schedule. The Fund is available for borrowing as necessary to implement the program. A payment limit of $100,000 per individual per crop year in total disaster assistance is imposed for all programs except TAP under this title. A separate limit is imposed for the TAP program of $100,000 per individual per crop year. The program is authorized only through September 2011.

Conservation

Conservation programs available under the 2002 farm bill are generally reauthorized in the new farm bill but with some modifications and with growth in the overall level of authorized funding. In terms of payment limits, programs funding was modified to reflect attribution to individuals receiving them.

The reserve programs, including the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP), were both reauthorized through 2012. The acreage cap in the CRP falls from 39.2 million acres to 32 million acres nationwide beginning in 2010. As part of the CRP, eligibility for the Farmable Wetlands Pilot Program was expanded to include, buffers, constructed wetlands designed to provide nitrogen removal, land devoted to commercial pond–raised aquaculture, and intermittently flooded land. Transition incentives in the form of up to two years of additional rental payments are authorized to $25 million, to facilitate a transition of land from a retired or retiring owner or operator to a beginning, limited, or socially disadvantaged producer. The WRP cap grows from 2.275 million acres to 3.041 million acres nationwide and includes a change in rules for compensating landowners that could make WRP enrollments more attractive.

On working lands, a major change in program name and payment structure remakes the Conservation Security Program into the Conservation Stewardship Program (CSP). The "Tiered" payment approach of the 2002 CSP has been replaced. Payments will be made to compensate producers for installing and adopting conservation practices based on environmental benefits and costs of applying the conservation practices. Enrollment in the new CSP is targeted at nearly 12.8 million new acres per year at an average cost of implementation of $18 per acre (or $230 million each year for new contracts on top of established contracts).

The Environmental Quality Incentives Program (EQIP) continues to provide cost–share and technical assistance for adopting new conservation practices. New priorities include conservation practices related to organic production and transition, payments to producers to address air quality concerns, and a new Agricultural Water Enhancement Program under EQIP to address water quality and water conservation needs. Organic transition programs and beginning and socially disadvantaged farmer funds are provided for in the legislation. The funding authorization for EQIP grows from $1.3 billion per year in 2007 to $1.75 billion per year by 2012.

Energy

The FCEA allocates $1 billion over the life of the bill to fund programs that augment renewable energy investments in new technology, new feedstocks, and facilities. This includes authorizations for programs like the Biomass Research and Development Program and Biorefinery As-

[5] *Shallow losses are those which the insurance or other programs do not cover.*

sistance. Collaborative implementation is mandated between USDA and Department of Energy to coordinate research and development addressing feedstock improvements and biofuel production efficiencies.

Horticulture and Organic Agriculture

Title X of the Farm Bill authorizes approximately $1 billion dollars to support the Horticulture and Organic Agriculture industry. Horticultural and organic commodity market prices and shipment information will be enhanced with a new market news service and organic marketing data collection and publication. Fresh produce safety concerns are addressed by including funds to educate both the public and the fresh produce industry. Funding is authorized to support farmers' markets, agri–tourism and other direct producer–to–consumer enterprises, and to support the use of electronic benefits transfers for the federal nutrition programs (such as in the food stamp program).

Central to the Title is the increased funding level supporting the Specialty Crop Block Grants program. Building upon the Specialty Crops Competitiveness Act of 2004, grants are provided to the states to support marketing, research, education, food safety, and pest and disease management. Research on Colony Collapse Disorder in honeybees and a National Clean Plant Network are also established under the title.

Livestock

FCEA adds a livestock Title (XI) to emphasize the industry's contribution and provide basic protection for farmers producing livestock and poultry. Under the Title, producers will be allowed to decline arbitration clauses in livestock and poultry contracts. Should litigation over contract disputes become necessary, language enables producers to petition for local court jurisdiction. Contracts may be canceled within three days after acceptance by producers. Swine and poultry contracts must disclose the possibility of large capital investments over the life of the contract. Other protections regarding unfair practices are specified.

Administrative oversight of the Packers and Stockyards Act by USDA is improved by instructing USDA to provide an annual compliance report detailing number of investigations, time spent, and potential violations of the Act.

Country of Origin Labeling (COOL)

The 2002 Farm Bill required country–of–origin labeling at retail sale outlets for beef, lamb, pork, fish, peanuts, fruits, and vegetables. Implementation was delayed in subsequent legislation until September 30, 2008 for all commodities except fish. FCEA maintains the September 30, 2008 implementation date for mandatory labeling and adds goat meat, chicken, pecans, macadamia nuts and ginseng to the list of commodities that must be labeled. The bill also clarifies how meat and seafood must be labeled with COOL. An industry–supported compromise on the 2002 legislation was included to ease labeling, record–keeping, and compliance rules.

Credit

The Credit Title of FCEA (V) authorizes programs supporting farm ownership, operating loans, and loans for cost–share conservation programs. Priority in virtually all the programs is relegated to beginning and socially disadvantaged farmers.

International Trade

Left out of H.R. 2419, a Trade Title III was reintegrated into H.R. 6124. Trade provisions allow for increased spending over baseline with some emphasis on responding to the global food crisis and maintaining foreign market access. Funds of $8 million were made available to help the Agency for International Development (AID) to warehouse food in developing countries for emergencies, and to plan for rapid distribution of that food in the case of emergencies. Local food purchases will be supported with a pilot program fund of $60 million. The McGovern–Dole International Food for Education and Child Nutrition Program is maintained, with $84 million allowed to purchase nutritious meals to school children in developing countries.

To comply with the WTO, export credit guarantee programs were reformulated. A fee cap on GSM–102 is lifted. Other programs affected were:

- The long term export credit program (GSM 103) was eliminated.
- Market Access Program is authorized at $200 million per year.
- Foreign Market Development Program is extended with $3 million for eligible commodities.
- Farmer–to–Farmer and the Bill Emerson Humanitarian Trust were extended.
- The Global Crop Diversity Trust is to be endowed by U.S. AID to conserve genetic diversity in food crops and store germplasm.
- Funding increases of $4 million in 2008, increasing to $9 million by 2012, are established for technical assistance for specialty crop trade.

There is also a section to add Softwood Lumber to The Tariff Act of 1930. This provision establishes the rules for export and import of softwood lumber, as well as establishing penalties for violations.

Other Provisions

Miscellaneous and other provisions are also included in FCEA. Those with implications for production agriculture include programs for value–added agricultural enterprises; socially disadvantaged and beginning farmers and farm workers programs; permanent bans from participation for defrauding USDA; prohibition on closures of county or field offices of FSA for two years; agri–security provisions; animal welfare protections; and the establishment of regional commissions dedicated to economic development. Research and education programs emphasized under the 2002 Farm Bill are mostly reauthorized but in some cases are cut or are shifted some from formula to competitive grants.

Some Implications of FCEA

In considering the impact of the FCEA on an individual producer, several factors should be considered. In particular, producers should be aware that the impact is likely to depend on such factors as yield variability, anticipated price variability, and regional environmental factors. Also, because changes were mostly marginal, those who were generally pleased with the 2002 act will likely be pleased with the 2008 act. Those who sought major reforms will be disappointed. In spite of those generalizations, alliances were formed among diverse interests to gain enough support for overwhelming passage of the act. The potential for problems in implementation will come as annual appropriations are considered and one program or another does not get what supporters think was promised during the farm bill's final days of negotiations. Nutrition programs receive the largest share of the Farm Bill funds with no guarantees that the food purchased will be domestically produced.

Some Likely Consequences of Key Provisions

ACRE and DCP

- The ACRE program will likely have its greatest impact in Midwestern corn states, but might not pencil out for many others[6]. Prices for corn, soybeans, and wheat are currently well above the target prices established in FCEA and, with the 10% limitation on annual changes in the guarantee in place, the program should benefit those areas with significant production of corn, soybeans and wheat .
- ACRE may more effectively protect producer income risk by focusing on revenue instead of price variation and by covering planted acres instead of base acres. However, benefits must be weighed against the required a 20% reduction in the direct payment and a 30% reduction in commodity loan rates.
- A producer's decision to participate in ACRE is complicated by the need to integrate the interaction of other programs such as the SURE program and crop insurance and the single payment limit for CCP and ACRE.
- ACRE payments could become very costly, could exceed the WTO amber box limits, and over–compensate producer incomes in case of sudden commodity price declines.

Insurance and Disaster Programs

- RMA's adjustment from 1.075 to 1.0 loss ratio may result in significant premium increases for some producers.
- Minor reductions in Administration & Operating expenses of 2.3 percentage points paid to companies reflects Congressional concerns that gains of over $1 billion to the companies over the past three years warrants limitations. However, commission rates will likely remain lucrative at current and projected premium levels.
- LFP, LIP, and TAP have existed in disaster legislation for some time, and should be easily implemented by the FSA.
- The administration of SURE may well prove to be a monumental task because of requirements to incorporate the whole farm and offsets of disaster assistance with insurance and other programs.
- SURE may increase incentives to "buy up" insurance coverage levels. Because of the 60% factor, higher coverage levels reduce shallow losses.
- Evaluation of SURE is mixed, and varying assumptions make questions about the adequacy of funding unclear. The 60% factor applied to the difference between the program guarantee and the total farm revenue caps the indemnity enhancement at 9%. This compares to the ad hoc program covering losses of greater than 35% loss at approximately 50% of the insurance price which allowed for much greater indemnity. The ad hoc program was specific to each crop on each farm and not the total of all crops on farms, which also provided a greater benefit to producers.

Conservation Initiatives

- Under FCEA, incentives to apply conservation practices cannot compete with current high commodity prices in many operations. However, that may change as prices begin to fall.
- The lower acreage cap under CRP, particularly if high commodity prices continue, will preclude the possibility of a new general signup until 2010 (with enrollments beginning fiscal year 2011). As a result, most of the 5.2 million acres of CRP that expires in 2008 and 2009 (and given continued high commodity prices) is likely to transition from the CRP back into agricultural production, especially if high prices continue.
- EQIP provides cost–share assistance for new conservation practices and allocates a majority of its resources to livestock concerns. CSP provides payments for existing stewardship in addition to new practices, but the payments are related to land use and might not be applicable to certain livestock practices.

[6] *Preliminary analyses by Michael Dicks, Oklahoma State University, indicated some producers, such as wheat producers in Oklahoma, would not be as well off under ACRE.*

- The Conservation Title might be considered to be generally status quo 2002, suggesting that growing pressure to shift marginal land back into production will continue unabated.

Sugar Provisions

- Free trade with Mexico and the resulting realignment of sugar trade may result in significant quantities of U.S. loan sugar moving into ethanol. This could be an expensive program for taxpayers, as well as consumers.

Energy Provisions

- The Bioenergy Program could be a real challenge to implement with the broad parameters set by Congress. Regardless of the shift toward support for cellulosic ethanol, there will continue to be pressure on the livestock sector because of the continued diversion of scarce resources from feed grains and grazing going into ethanol production.

Horticulture and Organic Provisions

- Specialty crops, especially fruits and vegetables, gained a windfall in terms of being included in the FCEA in a number of new provisions with significant initial funding. This reflects a successful organized push by the broad industry to gain access to farm bill funding (other than through direct subsidy payments). However, the reaffirming of fruits and vegetables planting restrictions under commodity programs will likely continue to be an issue in WTO talks. Transparency of the specialty crop block grants process has been a concern to this point and is not addressed in this legislation.
- Supporting farmers' markets, roadside stands, agri–tourism, and other similar producer–to–consumer enterprises has some detractors. Food safety could force the demise of this set of programs if producers do not effectively self–police.

Contract Livestock and COOL Provisions

- Although language provided with regard to contract grower / contractor relations provides grower protection, as the cost of production of these commodities continues to increase, the possibility of buyers finding contract and livestock placement loopholes may increase.
- There are those who are not happy with Congress leaving the packer feeder ban on the cutting room floor, perceiving it as caving to corporate agriculture, and they will continue to fight for this provision.
- Unlike the 2002 legislation, industry specialists believe the burden of COOL on those required to comply to be minor since virtually all commercial operators maintain adequate records.
- Records do not always specify where specific animals originate because of commingling; it is apparent Congress wanted COOL to be implemented but with few teeth.

Trade Issues (in and out of Trade Title III)

- Implications of the current bill are noteworthy because they indicate Congressional commitment to the intent of the goals of (1) respect for the spirit of the law regarding trade agreements; (2) providing food aid to hungry and disaster affected people outside the United States; and, (3) supporting competitive marketing of U.S. agricultural commodities and products.
- Commodity–related provisions were designed without concern for WTO violations. While the Agriculture Committees are right to say they represent American constituents and not foreign trade partners, real distaste for WTO and other trade agreements (completed and in process) was voiced on several occasions by leadership and members. A gauntlet may have been thrown down that marks the end of relative ease for negotiating trade agreements that include US agricultural reform.

Other Provisions

- Loan programs for beginning farmers are admirable, but the economics for beginning farmers are problematic. The cost of land (owned or rented) is escalating as is the cost of production and equipment. Economies of scale suggest larger farming operations are needed to generate adequate net margins for survival. This would indicate that beginning farmer will need to be 'sponsored' either by family or partnership to be successful even with lower cost federal loans.
- USDA continues to struggle with assimilating minority and socially disadvantaged farmers into program participation. The challenge will continue.
- Greater efficiency of USDA field offices seems to be the goal shared by both the Administration and Congress but delays are mandated in consolidating them.

Concluding Thoughts

Some analysts argue that the existing situation of high food prices and a global food crisis is, in part, the result of abandoning prudent supply and Federal risk management programs for more market–oriented policies in the 1990s. The farmer–owned–reserve was dropped, some income supports were decoupled from production, excess capacity was seen as a lingering problem to be eliminated, and subsidy of foreign sales slowed. There is little or no recognition in this farm bill of the problems and solutions suggested by this line of reasoning. Given recent experiences, it seems reasonable to at least consider the return of a long–term storage program.

There also appears to be little recognition that price change is cyclical and prices may fall within the next few years while input prices may remain high, worsening the agricultural profit squeeze and world food price situation. Disaster assistance, for example, is made permanent at support levels many analysts believe cover shallow losses and which may provide inadequate funding to cover widespread catastrophic farm losses sufficient to keep farmers in business. Speculative use of the futures market and rapid price increases have made it extremely expensive and less practical for hedging. The increase in lines of credit now needed for forward contracting and hedging is completely ignored in the legislation. Concerns about increasing weather variability and potential climate changes are largely ignored with little reform of crop insurance. The new programs such as ACRE and SURE seem to fall short of adequately responding to increasing volatility in agriculture and food markets from a variety of sources. This is perhaps the greatest shortcoming of the new legislation. Time and additional research may provide better answers and alternatives for market and government solutions.

For More Information

CBO Letter from Director Peter Orszag to Sen. Tom Harkin and Cong. Collin Peterson. May 13, 2008; http://www.cbo.gov/ftpdocs/92xx/doc9230/hr2419conf.pdf

H.R. 2419 and H.R. 6124 Food, Conservation, and Energy Act of 2008, full text at http://agriculture.house.gov/inside/FarmBill.html

"Letter to the House Ag. Committee from 1,000 organizations." http://agriculture.house.gov/inside/Legislation/110/FB/Conf/CoalitionLetter.pdf

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